





City of Loma Linda Official Report

Robert Christman, Mayor
Stan Brauer, Mayor pro tempore
Floyd Petersen, Councilmember
Robert Ziprick, Councilmember
Rhodes Rigsby, Councilmember

COUNCIL AGENDA: August 22, 2006

TO: City Council

VIA: Dennis R. Halloway, City Manager 

FROM: Deborah Woldruff, AICP, Community Development Director 

SUBJECT: Real Estate and Open House Signs – Tara A. Gates, Realtor

RECOMMENDATION

The recommendation is for the City Council to direct staff to prepare a Development Code Amendment to allow temporary off-site real estate property sales and open house signs.

BACKGROUND

On July 17, 2006, Mayor pro tempore Brauer commented on the proliferation of illegal signs that are displayed throughout the City, particularly during the weekends. He noted that many of the illegal signs are off-site real estate signs for new development, property sales and/or open house, and special sales events (i.e., bride expos, automobile sales, yard and garage sales). Mr. Brauer asked if staff could look at the Loma Linda Municipal Code to determine if an amendment might be needed to increase the fines and/or penalties associated with violations of the Sign Code. The City Council briefly discussed this topic and staff was asked to step up Code Enforcement abatement activities for illegal signs.

On Saturday, July 29, 2006, Code Enforcement Officer Jerry spent a couple of hours confiscating illegal signs that were placed in the right-of-way (ROW). Officer Jerry picked up around 15 to 20 illegal signs that may be characterized as real estate A-frame and single post signs for open house events and yard/garage sale signs tacked to utility poles, traffic and/or parking control signs, fences and walls, and landscaping materials (i.e., trees, bushes). The majority of real estate signs advertised an open house event for Realtor Tara Gates, Tarbell Realty and one or two signs for other Tarbell and Century 21 Lois Lauer realtors. On the following Monday, representatives from the real estate agencies came and picked up the signs.

Ms. Gates was very upset about the City's illegal sign abatement activities and she felt that the Code Enforcement officer had singled her out. As a result of the abatement activities, Ms. Gates open-house event on Welebir Street (on Saturday, July 29th) was not widely attended. She

pointed out that on the following day several other realtors had similar events that were well attended because no one removed their off-site, open house signs.

Ms. Gates and her fellow Realtor, Maryann Williams met with City staff, forwarded voice and email mail messages to staff and the Mayor, submitted a Code Enforcement Complaint Form regarding the removal of her open house signs, and contacted the Loma Linda Chamber of Commerce about their concerns. Ms. Gates also submitted two letters to the City Council (dated August 1, 2006) and the Community Development Director (dated August 10, 2006), respectively. Finally, Ms. Williams and Ms. Gates submitted a number of Code Enforcement Complaint Forms on illegal signs that have not been abated. Copies of the two letters and the Code Enforcement Complaint Form regarding Ms. Gates open house signs are contained in Attachment A.

During her discussion with City staff, Ms. Gates requested that this issue be placed on the next City Council agenda, which is for the August 22, 2006 meeting.

On Sunday, August 6, 2006, Code Officer Shea spent several hours abating illegal signs that were placed in the right-of-way (ROW). Mr. Shea collected well over 100 illegal signs that were similar in nature to the ones picked up by Mr. Jerry during the prior weekend. Due to the sheer volume of signs confiscated, they were stored at the Civic Center against the north wall of the trash enclosure and extending into the lawn area. Some of the signs were picked up by the real estate agencies and others were recycled due to water damage from the irrigation system. Photographs of some of the signs he confiscated are included in Attachment B.

On August 8, 2006, staff responded via email to a voice mail message from Ms. Gates. In the response, staff confirmed that Code Enforcement abatement of illegal signs would cease pending direction from the City Council on August 22, 2006. A copy of the email is in Attachment C.

On August 10, 2006, an email letter of comment from Mr. Norm Meyer was received by City staff. A copy of Mr. Meyer's email along with staff's response is available in Attachment D.

ANALYSIS

Code Requirements

In her letter of August 10, 2006, Ms. Gates takes issue with staff's usage of the phrase "illegal real estate signs." She feels that the Loma Linda Municipal Code (LLMC) does not address real estate open house signs and for this reason, the signs are not illegal. LLMC §17.18.030 *Definitions*, Item No. 32 states that the term "'Illegal sign' means any sign placed without proper government approval and/or permits required by the ... Code at the time said sign was erected." Taken a step further, §17.18.040 *Permit required* states that "A sign permit shall be obtained from the community development department and department of building and safety, prior to placing, erecting, re-erecting, moving, reconstructing, altering, maintaining, or displaying of any sign unless specifically exempted from such permit requirement by this chapter." The types of off-site signs that were collected on July 29th and August 6th did not have planning or building permits from the Community Development Department and are all categorized as illegal signs.

In actuality, staff could not have issued permits for these types of signs even if the sign owners had applied for planning and building permits. The signs were placed off-site and in the ROW without approved Encroachment Permits (as require by §12.04.080 *Encroachment permit required when*). The Sign Code places very stringent limitations on off-site signs in §17.18.160 *Permitted signs-All zones*, (Item I. addresses permanent off-site signs utilized to direct pedestrians or motorists to a particular location and requires Planning Commission approval), §17.18.190 *Off-site subdivision directional signs* (BIA Kiosk Sign Program), and §17.18.210 *Permanent off-site directional signs permitted when* (directional signs that require Planning Commission approval for the use and City Council approval for the encroachment in the ROW). Off-site real estate property sales or open house events, and other types of special sales or events signs do not meet the criteria stipulated in the Code sections cited herein.

In §17.18.250 *Prohibited signs* states signs on natural features (such as trees, vegetation, rocks or other natural features), temporarily affixed to parked vehicles in the public ROW or on private property for purposes of advertising, and portable signs are prohibited (except those portable signs allowed by §17.18.080 *Temporary permits* and §17.18.140 *Permitted signs – C-1, C-2, C-G, C-F, C-N, C-M, I-C, and M-R zones*). As stated, all of the signs collected over the two weekends are prohibited by Code.

Other local realtors feel that if the Sign Code does not specifically list a particular sign use, type, placement, or circumstance, then the sign in question should be allowed. This issue is addressed in §17.02.040 *Interpretation by city council*, which states the following:

“If any use if for any reason omitted from the lists of those specified as permissible in each of the various zones herein designated, or if ambiguity arises concerning the appropriate classification of a particular use with the meaning and intent of this title or if ambiguity exists with reference to matters of height, yard requirements or area requirements as set forth herein and as they may pertain to unforeseen circumstances, it shall be the duty of the city council to ascertain all pertinent facts concerning said use and by resolution set forth its findings and reasons therefore; thereafter, such interpretation shall govern.”

Similarly, §17.04.110 *Uses not permitted prohibited* states the following:

“All uses not specifically permitted, permitted subject to a conditional use permit, or provided for by interpretation of the enforcement officer or city council shall be prohibited. A variance as provided for in Sections 17.30.030 through 17.30.060 shall not be construed as a zoning devise to allow or permit a prohibited use.”

Code Amendment

In the letters provided by Ms. Gates and Mr. Meyer, some very good points are made in favor of allowing certain types of real estate property sales and open house signs. Local residents and business owners should be able to market their properties using modern real estate methods and techniques. The open house concept has become a very popular and public friendly means of showing property to prospective buyers and allows working adults to consolidate site visits to a five or six hour period on a convenient weekend or weekday. However, the City's Sign Code

does not allow placement of the temporary signs that are necessary to direct prospective buyers to the properties that are for sale.

A few years ago, the City was made aware by the business community that the Sign Code lacked provisions for A-frame, portable signs. The City and Loma Linda Chamber of Commerce successfully worked together with the business community to amend the Code to allow A-frame. The A-frame business signs do not require a Sign Permit as long as certain size, placement and text requirements are met. Staff is confident that the off-site real estate property sales and open house sign issue may be similarly addressed through the cooperative efforts of the City, Loma Linda Chamber of Commerce, and business and/or real estate community.

ENVIRONMENTAL

The request to initiate a Development Code Amendment to allow temporary real estate property sales and open house signs is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15061(b)(3), which states the following:

“...CEQA applies only to projects [that] have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

While the foregoing request is not subject to CEQA, the subsequent Development Code Amendment project would be and staff would prepare the appropriate environmental documents for CEQA compliance.

FINANCIAL IMPACT

There is no financial impact associated with the foregoing request to initiate a Development Code Amendment to allow temporary real estate property sales and open house signs. If the request is approved by the City Council, the amendment project would result in costs associated with staff time and materials. At this time, the financial impacts of the Development Code Amendment are unknown.

ATTACHMENTS

- A. Correspondence from Tara Gates
 - 1. Letter (August 10, 2006)
 - 2. Letter (July 31, 2006)
 - 3. Code Enforcement Complaint Form (July 31, 2006)
- B. Photographs of Confiscated Signs (August 7, 2006)
- C. Email Letter to Ms. Tara Gates (August 8, 2006)
- D. Email Letter from Mr. Norm Meyer (August 10, 2006)

CORRESPONDENCE FROM TARA GATES

1. Letter (August 10, 2006)
2. Letter (July 31, 2006)
3. Code Enforcement Complaint Form
(July 31, 2006)

August 10, 2006

Deborah Woldruff, AICP, Director
City of Loma Linda
Community Development Department
25541 Barton Road
Loma Linda, California 92354

RE: Letter Dated August 8, 2006

Dear Deborah:

Thank you so much for the letter you sent me regarding the cease enforcement of the real estate signage, used for open houses until August 22, 2006. I really appreciate the documentation in writing, so that the agents of Tarbell and other real estate firms can continue to run their business in Loma Linda and hold open houses for the local Loma Linda residents in order to facilitate the sale of their homes.

I do take issue with the phrase in your email, "illegal real estate signs". According to the present ordinance for the City of Loma Linda, real estate open house signage is not addressed, and therefore is not "illegal". What is illegal is the vandalism of private property by Loma Linda City employees. Mr. John Gerry has been seen by more than one real estate agent throwing the confiscated signs into the bed of the truck that he uses, opposed to placing them in the truck. This is unacceptable and it is behavior that shows a gross lack of respect for personal private property. The real estate agents to include myself, are business people working in Loma Linda, we are not hoodlums and are property should not be treated as if we are.

I also recall speaking to you regarding picking up our signs after the City has picked up the signage. Never were we told that the signage would be in and around the City trash can, on City property. The signs are very expensive and it takes a great investment from each real estate agent, as each agent is an independent contractor responsible for purchasing this signage. It is not appreciated when the signs are vandalized, scratched by gross mishandling that can easily be prevented, removed from their frames, by being intentionally cut, and the flags that were attached, missing. The City has no right to destroy private property even if they have a right to confiscate the signage. The City also doesn't have a right to pick up signage that is not in the jurisdiction of the City of Loma Linda, which has also occurred. The code enforcement officer has very apparently overstepped his boundaries, in more that one way.

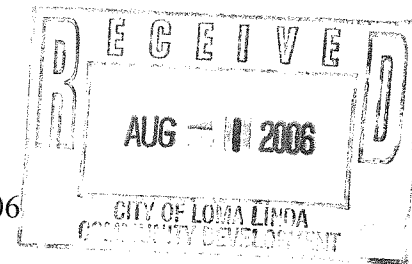
I appreciate your consideration and notification, and look forward to the council meeting August 22, 2006, along with our Tarbell agents, real estate agents from other firms and developers all operating, bringing income and business to the City of Loma Linda.

Sincerely,

Tara A. Gates
26510 Cornell Street
Loma Linda, California 92354

Floyd Peterson, Mayor
Stan Brauer, Mayor Pro-Tempore
Robert Ziprick, Councilman
Charles Umeda, Councilman
Robert H. Christman, Councilman
CITY OF LOMA LINDA
225541 Barton Road
Loma Linda, California 92354

July 31, 2006



Re: Confiscation of Tara A. Gates Real Estate Signs Prior to an Open House

Dear City Council Members:

I am still reeling from code enforcement targeting my real estate signs and taking them, preventing me on Saturday from having potential buyers find and buy properties from Loma Linda residents. Is City Council aware that we now have a buyers' market? The residents of Loma Linda need all the help they can get to market and sell their property in a timely manner.

Does the City Council want a load of housing inventory in their City? Do they want the stigma of property that won't sell as Loma Linda's reputation for their community? If you continue in this vein, you will not only upset the business community, but the residents that want to sell their homes. You will have a load of housing inventory of homes that won't sell, because Realtors will not do business in your community if they cannot hold open houses. How happy do you think your Loma Linda homeowners will be?

I also think that it is pretty suspicious that my signs were specifically targeted on Saturday and the proliferation of signs for real estate on Sunday, were not confiscated. It appears that there is some religious persecution in the fact that I attend church on Sunday, and I am being forced to observe "no business" on Saturday in Loma Linda's blatantly Seventh Day Adventist Community. I have in my possession, over 30 digital photos of real estate and other signs that are up today, and were up over the weekend, and not confiscated. It appears that I have been specifically targeted. I feel that I am religiously persecuted, as I see even more signs in Loma Linda on Sunday, and none of them were confiscated.

I cannot digest the short-sightedness of a City Council that is persecuting the business community when it is your job to protect the businesses and the residents of Loma Linda, and you are doing just the opposite. You are adversely affecting the potential income and economic solvency of both the business and the local Loma Linda residents.

I am a new Realtor, although I have lived in Loma Linda since 1999. I have run for City Council in Lancaster, and I have been a City Planning Commissioner for that City for two terms and served as Chairwoman. I am a Loma Linda Chamber of Commerce Member, and very active in that organization, as I am also a past President of the Lancaster Chamber of Commerce. I am appalled at your bureaucratic careless enforcement of your sign ordinance that is not clear enough to even understand. The point is not the ordinance;

it is your lack of vision and business acumen as City Council members. None of you should be serving on the council with this business posture.

Having said that I am a new Realtor, I have put over \$50,000.00 in getting my business going, I spend money, sometimes over \$300.00 per weekend to market a house in the newspaper, with flyers and other expensive marketing, so that potential buyers will show up for the event, so that I can make a sale in Loma Linda that benefits not only me personally, but the fiscal solvency of Loma Linda, and their individual residents.

I put planning and my literal sweat into getting out and placing my signs in heat of sometimes over 100 degrees and more, placing balloons, baking cookies and setting up the open house for sale and showcase. Being a resident of Loma Linda, I do not want any city council person on the council with such ignorance in the basics of running a business running the city where I reside. I will do all in my power to remove such ignorance off the council, and vote in members that protect business in my community and me as a resident.

I do expect consideration as I continue my business in Loma Linda, or I can take my services to Redlands, San Bernardino, and Highland, as they are real estate and business friendly. Be assured that you haven't heard the end from me if you continue to target my business efforts. I don't go away quietly. I have 20 years in marketing and advertising along with my experience in the City of Lancaster. I will start a campaign to reveal your lack of consideration for local businesses, and it will hurt you as you have hurt my business in your cavalier treatment of me as a business woman and resident in Loma Linda.

Sincerely,



Tara A. Gates/**Realtor**
26510 Cornell Street
Loma Linda, California 92354

I also find it overwhelmingly suspicious that my open house was on Lazano, and Stan Brauer, Mayor Pro Tempore lives on the same street. I was told it was he that made sure that his street wouldn't have such signage "blight" and contacted code enforcement to have his *personal desires* fulfilled regarding the removal of my signs. If that is also the case, I am appalled at the self-centeredness of his decision to target me, and again, his gross lack of business and community vision.

CC: The Sun Newspaper
The Press Enterprise
The Redlands Daily Facts

CITY OF LOMA LINDA
CODE ENFORCEMENT COMPLAINT REPORT



Complainant / Reporting Party TARA A. GATES Date 7/31/06
Address 20510 CORNELL STREET Phone # 478-3820

All information must be completely filled out. Anonymous complaints will not be received. It is department policy not to disclose complainant names during the initial stages of an enforcement effort. Due to the Freedom of Information Act cases which are prosecuted in Court may lead to the divulging of the Complainants name.

Location of Complaint REAL ESTATE OPEN HOUSE SIGNS
(one address per complaint form)

Nature of Complaint I WAS TARGETED UNFAIRLY
IN THE REMOVAL OF MY OPEN
HOUSE SIGNS ONLY UP DURING MY
OPEN HOUSE HOURS. I HAVE OVER
30 DIGITAL PHOTOS OF OTHER REAL
ESTATE SIGNS THAT WERE NOT
TARGETED THE SAME DAY. IF YOU
MEET OUT JUSTICE IT NEEDS TO BE
DONE UNIFORMLY

[Signature]
Signature of Reporting Party

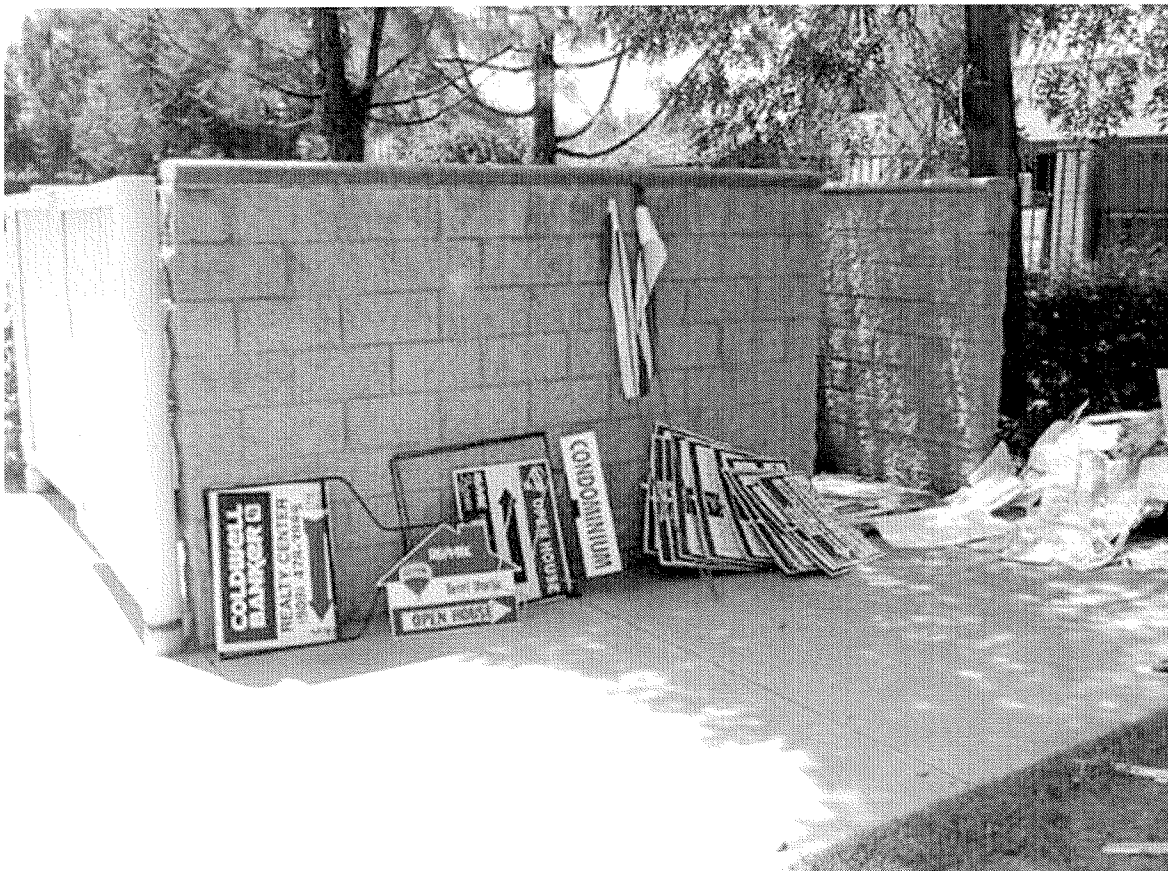
PHOTOGRAPHS OF CONFISCATED
SIGNS (JULY 31, 2006)

Deborah Woldruff

From: Jim Shea
Sent: Monday, August 07, 2006 10:42 AM
To: Deborah Woldruff
Subject: signs

Photos showing just some of the signs picked up this last weekend.





EMAIL LETTER TO MS. TARA GATES
(AUGUST 8, 2006)

Deborah Woldruff

From: Deborah Woldruff
Sent: Tuesday, August 08, 2006 2:32 PM
To: Tara A. Gates (taragates@tarbell.com); Maryann Williams (MaryAnnWilliams@Tarbell.com)
Subject: Real Estate Sign Issue

August 8, 2006

Dear Ms. Gates:

I wanted to let you know that I did receive your voice mail from earlier this afternoon. I will attempt to address your concerns with the following:

- 1) I did forward your call requests to Mayor Christman and Mayor pro tempore Brauer.
- 2) Code Enforcement will cease enforcement actions relating to illegal real estate signs until we receive further direction from the City Council on August 22, 2006.
- 3) As promised, this issue will be included on the August 22, 2006 City Council Agenda.

The City Clerk prepares the agendas for the Council Meetings and posts a copy of the City's website on the Thursday evening prior to a Council Meeting on the following Tuesday. In this instance, the agenda will be posted on Thursday, August 17, 2006 in the late afternoon or early evening.

Sincerely,
Deborah Woldruff, AICP, Director
City of Loma Linda
Community Development Department
25541 Barton Road
Loma Linda, CA 92354
(909) 799-2830
(909) 799-2894 fax
email - dwoldruff@lomalinda-ca.gov

8/16/2006

EMAIL LETTER FROM
MR. NORM MEYER
(AUGUST 10, 2006)

Deborah Woldruff

From: Deborah Woldruff
Sent: Thursday, August 10, 2006 6:04 PM
To: 'nhmeyer1@verizon.net'
Subject: RE:

Dear Norm:

Thanks for your email comments. I know this issue is of great concern and to the real estate community, in particular. I've asked my Code Enforcement Officers to cease their abatement activities as relates to this issue until the City Council gives us further direction. As a person trying to sell a house in Redlands, I do have a lot of empathy and sympathy for the sellers and real estate agents.

I will take your comments into consideration and forward them to the City Council for their meeting on August 22, 2006, when this item will be presented to them.

Sincerely,
Deb Woldruff
City of Loma Linda
Community Development Department
25541 Barton Road
Loma Linda, CA 92354
(909) 799-2830 main
(909) 799-2831 direct
(909) 799-2894 fax
email - dwoldruff@lomalinda-ca.gov

-----Original Message-----

From: nhmeyer1@verizon.net [mailto:nhmeyer1@verizon.net]
Sent: Thursday, August 10, 2006 3:03 PM
To: Deborah Woldruff
Subject:

Deborah,

I understand that there is some interesting things going on in the City regarding signs. I understand that most of this has to do with Realtor signs. If the sign ordinance is going to be reviewed, I think it might be well to consider special dealings with condominiums. For example: At Brittany place we have in our CC&R's and Rules and Regulations that for rent or sale signs are allowed only in a window or on the garage door. Some inventive realtor could say that the 12ft back from the curb is City property and the Homeowners Association has nothing to do with the sign. That would mean that those living on the public street would have a sign on the street, but those living farther in could not.

I think a new ordinance should clarify this so that in the future this subject could be controlled by the Homeowners Association.

Please consider this idea if a new ordinance or a clarification of the old ordinance is made.

Thanks a lot.

Norm Meyer

8/10/2006